

## **RDMD/Planning and Development Services**

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**DATE:** December 1, 2005

**TO:** Orange County Zoning Administrator

**FROM:** RDMD/PDS/Current and Advance Planning Services

**SUBJECT:** Public Hearing on Planning Application PA04-0051 for Variance

**PROPOSAL:** The applicant requests approval of a rear yard setback Variance to permit the construction of a walk in closet in the rear portion of an existing single-family dwelling. The rear yard setback is currently 13.5 feet. The proposed addition will reduce the rear yard setback to 6 feet from the rear property line, which requires approval of a Variance prior to construction.

**LOCATION:** The project is located in the community of Emerald Bay, inland of Pacific Coast Highway at 1008 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

**APPLICANT:** Patricia Stanton, property owners

**STAFF** Yosh Kawasaki, Project Planner  
**CONTACT:** Phone: (714) 834-4389 FAX: (714) 667-8344

**SYNOPSIS:** Current and Advance Planning Services recommends Zoning Administrator approval of PA05-0051 for Variance subject to the attached Findings and Conditions of Approval.

### **BACKGROUND:**

The subject property is located in the inland portion of Emerald Bay. The property is located at 1008 Emerald Bay and is legally known as Lot 3 of Tract 3125. The lot is approximately 8,670 square feet irregular size lot, measuring approximately 80 feet across the street frontage and an average depth of 108 feet. The site is developed with a single-family dwelling. The dwelling is single story. The development is designated R1 Residential with a CD – Coastal Development overlay.

On February 4, 1960, Variance V-4002 was issued at the time of construction of the dwelling for a front setback variance to 12 feet to accommodate an attached garage and a rear setback variance to 13.5 feet for the dwelling. There has been no other variance issued to the property and the dwelling has changed very little since the time it was first constructed in 1960.

Emerald Bay has a certified Local Coastal Program (LCP). The LCP has a requirement that all properties on the ocean side of Pacific Coast Highway are also subject to regulations contained in Zoning Code Section 7-9-118 "Coastal Development" District. In general, property owners are required to obtain approval of a Coastal Development prior to demolishing a dwelling or making a large addition to an

existing residence and/or construction of a new dwelling. Properties located inland of Pacific Coast Highway, such as the subject site, are not subject to the CD regulation and are not subject to obtaining a Coastal Development Permit for new construction.

### **SURROUNDING LAND USE:**

The project site and all surrounding properties are zoned R1 “Single-family Residence” District with a CD “Coastal Development” District overlay, and developed with single-family dwellings (see photo below).



### **REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to three County Divisions and the Emerald Bay Community Association. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. Emerald Bay has reviewed the project on July 23, 2005 and given its approval.

## **CEQA COMPLIANCE:**

The proposed project is Categorically Exempt (Class 5, minor alterations in land use limitations – setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

## **DISCUSSION/ANALYSIS:**

As stated previously, in addition to the R1 zoning, Emerald Bay has a certified Local Coastal Program (LCP). The LCP has a requirement that all properties on the ocean side of Pacific Coast Highway are also subject to regulations contained in the Zoning Code Section 7-9-118 “Coastal Development” District. In general, property owners are required to obtain approval of a Coastal Development Permit prior to demolishing dwellings or making large additions to existing residences and/or construction of a new dwelling. Properties located inland of Pacific Coast Highway, such as the subject site, are not subject to the CD regulations and are not subject to obtaining a Coastal Development Permit for new construction.

The subject lot is irregularly in shape, slightly less than rectangular, with an average depth of 108 feet and average width of 84 feet. The R1 District has a normal rear setback of 25 feet. The walk in closet addition to the master bed room is proposed to be 7 foot 6 inch deep by 8 feet wide addition.

As stated earlier, Variance V-4002 (February 4, 1960) was issued at the time of construction of the dwelling for a front setback variance from 21.7 feet to 12 feet to accommodate an attached garage and a rear setback variance from 21.7 feet to 13.5 feet for the dwelling. The 21.7 feet setbacks were the existing standards at the time of development in the 1960’s. There has been no other variance issued to the property and the dwelling has changed very little since the time the home was construction. Because the proposed addition does not conform to current rear yard setback standards, a variance is required.

The reason for the many variances in Emerald Bay is the CCRs, which limit building height and allows setbacks of up to five feet from all property lines. Because in many cases the property owner is unable to build to the R1 District height limit of 35 feet, structures are constructed with encroachments into the front and rear setback areas. Even though many variances have been approved, before this or any other variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
2. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff is of opinion that the Zoning Administrator is able to make these two special variance findings. The special circumstance for approving the variance requested for this proposal is in Finding No. 7 of

Appendix A. Because the requested variance is not unlike previously approved setback variances staff can support the proposed the rear setback variance and makes a recommendation as follows.

**RECOMMENDED ACTION:**

PDS/Current and Advance Planning Services recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA050051 Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Signature on file

Charles M. Shoemaker, Chief  
PDS/Land Use Planning

**APPENDICES:**

- A. Recommended Findings
- B. Recommended Conditions of Approval

**EXHIBITS:**

1. Applicant's Letter of Explanation
2. Site Photos
3. Site Plans
4. Environmental Documentation

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the RDMD/Planning and Development Services.